

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :

v. : CRIMINAL NO. 1:CR-01-107

BRUCE P. WARD, :
Defendant

TRANSCRIPT OF PROCEEDINGS

REVOCATION OF RELEASE HEARING

Before: Hon. William W. Caldwell, Senior Judge

Date: August 20, 2001

Place: Courtroom No. 1
Federal Building
Harrisburg, Pa.

FILED
HARRISBURG, PA

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MARY E. D'ANDREA, CLERK
Per 

COUNSEL PRESENT:

DENNIS C. PFANNENSCHMIDT, Assistant U.S. Attorney

For - Government

THOMAS A. THORNTON, Esquire

For - Defendant

Monica L. Zamiska, RPR
Official Court Reporter

1 MR. PFANNENSCHMIDT: Your Honor, this is the matter
2 of the United States v. Bruce Ward. It is captioned at
3 1:CR-01-107. Mr. Ward is present today on the basis of an
4 order issued by the Court on August 10 on a petition for
5 revocation of release, and the Court scheduled today at this
6 time for a hearing on why the bail should not be revoked.

7 THE COURT: Okay.

8 MR. THORNTON: Your Honor, if I could, this hearing
9 has been scheduled basically at my request. Mr. Ward has
10 been under the pretrial supervision of Mr. Buckwalter since
11 his initial appearance in this matter in April. During that
12 time the probation office set Mr. Ward up for evaluations at
13 Ponessa & Associates and also at the Holy Spirit Hospital.
14 The evaluation at Ponessa has been completed, and the
15 probation office is now seeking to have Mr. Ward undergo
16 treatment at Ponessa & Associates. He still has the
17 evaluation at Holy Spirit Hospital to undergo. He was,
18 supposed to be there on Friday of this week but unfortunately
19 -- or Friday of last week, but unfortunately he was starting
20 a job that day and so had to reschedule that appointment.

21 Your Honor, at this point we are here because I
22 have instructed Mr. Ward that the pretrial release order does
23 not require him to undergo the type of therapeutic
24 supervision which the probation office is planning to impose
25 upon him, including things such as a therapeutic polygraph

1 which is undertaken by Ponessa & Associates, and I personally
2 think the term therapeutic polygraph is probably an oxymoron.
3 I don't believe the two things can possibly go together.

4 And then, secondly, it's my understanding that
5 there is a possibility that a plethysmograph, which is
6 p-l-e-t-h-y-s-m-o-g-r-a-p-h, that a plethysmograph may be
7 used during this treatment. A plethysmograph device is like
8 a blood -- from my understanding is like a blood pressure
9 collar that is applied to an individual's penis, and then the
10 individual is shown movies and audiotapes of non-consensual
11 and violent sexual interaction in order to engage what blood
12 flow differences occur in the person's penis during that
13 showing of the movies. We do not feel that Mr. Ward should
14 be required to undergo any of this type of therapy, if it's
15 therapy, any of these things as a result of his pretrial
16 supervision.

17 He's done nothing since the time of his arrest to
18 indicate that there has been any further conduct, any further
19 conduct that is similar to the conduct in these charges.
20 There has been no accessing of the internet for child
21 pornography purposes, and on top of that the charges
22 themselves don't involve actual contact with any human being.
23 They involve downloading things from the internet. So there
24 is no indication here that Mr. Ward has ever abused another
25 person or attempted to abuse a child in any way.

1 Consequently we believe that the decision by the
2 probation office to require Mr. Ward -- to force Mr. Ward to
3 undergo therapy and whatever else Ponessa & Associates decide
4 is appropriate for them is not necessary in the pretrial
5 release order that Your Honor has set out and not necessary
6 for Mr. Ward and is probably unconstitutional because it
7 requires Mr. Ward to divulge confidences to a therapist who
8 does not have a patient/therapist relationship with him but
9 who reports directly to the probation officer, and the
10 information that he provides goes directly into the
11 presentence report.

12 So he's in a situation where if he doesn't talk, he
13 goes there and doesn't participate, they deny him acceptance
14 of responsibility. If he goes there and talks and tells the
15 truth, they put it in the presentence report and his sentence
16 is increased either in the guidelines or possibly even
17 outside the guidelines.

18 And, even further, there is the distinct
19 possibility there is some other type of uncharged criminal
20 conduct that may come up during these forced therapy
21 sessions.

22 Consequently we ask Your Honor to not revoke Mr.
23 Ward's release for two reasons. First of all, this is
24 basically my objection, and the reason for my objection is we
25 have these cases coming up fairly regularly now, and the

1 probation office is using Ponessa & Associates on a regular
2 basis to do these interviews and suggest this therapy. Mr.
3 Ward's case seems to be the first one that is appropriate to
4 bring to Your Honor's attention the fact that this therapy
5 with the plethysmograph and group therapy and all the other
6 things is really not or should not be part of a pretrial
7 order of release, and consequently we'd ask Your Honor not to
8 revoke Mr. Ward's release because he will do whatever the
9 Court orders here, and we wish to interpose an objection to
10 the probation office requiring this kind of treatment of a
11 person who is about to go to jail for a couple of years.

12 THE COURT: Okay. Mr. Pfannenschmidt.

13 MR. PFANNENSCHMIDT: Well, Your Honor, I guess a
14 couple points. One is I think it's important here to
15 recognize what the issue is before the Court and the status
16 of the case as it stands. Mr. Ward has pled guilty to an
17 offense that involves obtaining child pornography. So that's
18 the situation that he's in.

19 The probation office, as they always do in these
20 cases, require an evaluation. He received that evaluation by
21 a professional. The probation office has made a
22 determination that he needs to undergo treatment. They have
23 now indicated that should be the recommended course of
24 treatment, the probation office agreed with that, and
25 pursuant to the conditions of release they have directed that

1 he comply with the conditions of release as they are stated,
2 which, as I read it, satisfactorily participate in mental
3 health and/or substance abuse evaluation, testing and/or
4 treatment as directed by pretrial services. There is no
5 exception to that. It clearly says this is what he's
6 required to do as a condition of release. Now he's refused
7 to do that. I think that's the issue.

8 Since he's refused, I think the Court has Section
9 3148 of Title 18 indicates that a person who violates a
10 condition of his release is subject to a revocation of
11 release and ordered detention and even prosecution for
12 contempt of court. So I think it's a very simple
13 straightforward matter.

14 THE COURT: This is the first time that any
15 evaluation of the type described by Mr. Thornton has been
16 objected to or brought to my attention. Are there other
17 people under the supervision of pretrial services who are
18 made to do these very things?

19 MR. PFANNENSCHMIDT: I'm not sure I could answer
20 that. Maybe probation could answer that.

21 MR. BUCKWALTER: Yes, Your Honor, there have been.

22 THE COURT: Do you meet resistance or objection?

23 MR. BUCKWALTER: Not that I'm aware of, Your Honor.

24 MR. THORNTON: If I can interrupt, I know I had one
25 previous case where this was done to my client. I don't know

1 if there were any other previous cases other than Thomas
2 Davis. Is that the only one? Is there any other one that
3 it's been done to?

4 MR. BUCKWALTER: I can't think of any, but that is
5 one.

6 MR. THORNTON: Your Honor, the previous case that I
7 had where we did not make this objection because of the
8 specific facts of that case. In this case this objection
9 seemed much more appropriate where they require Mr. Ward to
10 undergo extreme therapy which does not have any basis in
11 science or fact, and consequently it's unreasonable to
12 require him to undergo any therapy which the probation office
13 thinks is appropriate. There must be some basis in science
14 or fact for this plethysmograph. It isn't even admissible in
15 court. It cannot pass the challenge from numerous cases in
16 federal courts and state courts. Consequently it doesn't
17 seem that Mr. Ward should be able to undergo that type of,
18 quotation marks, treatment.

19 Particularly the therapeutic polygraph just seems
20 very inappropriate and impossible to work correctly unless --

21 THE COURT: What is a therapeutic polygraph, does
22 anybody know?

23 MR. PFANNENSCHMIDT: Your Honor, generally speaking
24 if I can answer that, I had spoken to Cam Richesson,
25 R-i-c-h-e-s-s-o-n, who is here in the courtroom, and I think

1 she can answer more particularly, but in my conversations
2 with her, it is my understanding that anything like this is
3 for treatment purposes only, and I'm not aware of the second
4 matter that Mr. Thornton raised, I never heard of that, but
5 regardless of that, I think he made some comments about this
6 being extreme therapy, and I think that's without basis. My
7 understanding from her is that this is routine therapy.

8 THE COURT: Well, if I understand Mr. Thornton
9 correctly, there are two examinations or therapies that you
10 object to?

11 MR. THORNTON: Yes, Your Honor, the therapeutic
12 polygraph --

13 THE COURT: Okay.

14 MR. THORNTON: -- and the plethysmograph,
15 p-l-e-t-h-y-s-m-o-g-r-a-p-h.

16 And, Your Honor, just as a further point to what
17 Mr. Pfannenschmidt said, we wouldn't have a difficulty with
18 these therapies, these requirements, if it weren't reported
19 directly to the Court, so that anything that Mr. Ward says,
20 he might as well be speaking directly to Your Honor because
21 there is no patient/therapist privilege. There is -- I mean,
22 his incentive to not tell the truth, even though if you read
23 -- eventually Your Honor will probably see the Ponessa
24 evaluation, you will see that he certainly didn't tell the
25 truth, but his reasons for not telling the truth are just

1 extremely great. If everything that he says is going to be
2 reported in the presentence report, then he will either
3 increase his guideline range or will cause Your Honor to look
4 at him and say, "Oh, I'm going to give him a sentence at the
5 high end of the guideline range because of what he said in
6 therapy." We run into a terrible situation because now Mr.
7 Ward, if he goes to the therapy and feels chilled by the fact
8 that anything that he says is coming straight back here to
9 court, then the people at Ponessa & Associates are going to
10 say he's not complying, he doesn't want to do it, he's
11 dragging his feet, and consequently they may recommend that
12 he doesn't get acceptance of responsibility points for not
13 complying with the treatment. Mr. Ward is just put in a very
14 bad situation which could be remedied by Ponessa & Associates
15 not divulging the information that he gives them during
16 therapy to the Court.

17 I understand that the initial evaluation process
18 most likely has to be divulged to the Court, but it seems
19 that the therapy that is undertaken after the evaluation does
20 not necessarily need to be divulged to the Court, and
21 actually it's working for cross purposes if it is.

22 THE COURT: Has there been the evaluation?

23 MR. THORNTON: Yes.

24 THE COURT: There has been?

25 MR. THORNTON: Yes, Your Honor.

1 THE COURT: I think Mr. Thornton has a point there.

2 MR. PFANNENSCHMIDT: Well, Your Honor, I think
3 that, if I can reply to that, my understanding of this is
4 this is supposed to be treatment, and that's what's going on
5 here. I think it's -- there is a number of scenarios Mr.
6 Thornton has outlined, and I think it's highly unlikely at
7 best. The idea here, these therapists are not there to try
8 to obtain information from this individual so the Court can
9 then use it to enhance his guidelines.

10 I'm not aware of any basis under which Mr. Ward --
11 my discussions with Mr. Thornton about Mr. Ward's situation,
12 I'm not aware of any information that he has that could have
13 enhanced the guideline here. I'm familiar with this
14 guideline. I don't see what he could say that could possibly
15 change the guidelines. So I think that is --

16 THE COURT: I guess he could say something that
17 would cause me to believe that he ought to be sentenced at
18 the high rather than the low end of the range.

19 MR. PFANNENSCHMIDT: But I think it's incorrect to
20 assume that we're taking specific things that he says. The
21 way this therapy works, as I understand it, is there is a
22 group therapy, and it's a discussion among individuals. It's
23 not a therapist sitting there taking down what he says and
24 then reporting it to the Court. There is a process that goes
25 on, and their report to the Court is more in terms of the

1 result of that process rather than the process itself. I
2 think under that situation there is very little likelihood
3 that anything he in particular says about a specific
4 situation could lead to that.

5 There is also the fact that the Court needs to have
6 a picture of this individual in order to make a
7 determination of where the sentence should be anyway. So
8 some of that information is proper before the Court. I'm not
9 quite clear exactly what counsel's objection is. I think
10 he's claiming some kind of self-incrimination objection, but
11 there is no indication in this process that he's going to
12 incriminate himself, so I'm kind of at a loss to understand
13 what exactly the objection is here.

14 MR. THORNTON: Well, it's sort of two parts, Your
15 Honor. The fifth amendment requires some compulsion of Mr.
16 Ward's being compelled at this point to give evidence against
17 himself. If he were to say something, it could be used
18 against him, and if he were to admit to some other criminal
19 activity, the therapist may be under a duty under
20 Pennsylvania law to report that criminal activity, and
21 consequently he could be in even a worse position.

22 The Kansas courts have dealt with this and have
23 granted immunity, and obviously it's not something that's
24 been done in the federal courts on a regular court-wide
25 basis, but they granted immunity for all the therapy so that

1 there is no possibility that anything that's said during
2 therapy can be used in any way in any proceeding against the
3 individual. That's sort of a halfway step or a way in
4 between.

5 As I said at the beginning of the hearing, Mr. Ward
6 is fully ready to comply with whatever order Your Honor
7 issues.

8 THE COURT: Mr. Pfannenschmidt, would you be able
9 to agree that anything that is revealed in the course of this
10 therapy would not be the basis for another criminal charge or
11 a basis for setting the guidelines? I think that's --

12 MR. PFANNENSCHMIDT: Well, Your Honor, in this
13 specific case I don't think that's a problem. I do have a
14 problem with that though in the general sense because again I
15 think there it's important to look at the context here, he's
16 refused to participate in this treatment, he can do that, but
17 then the Court has a duty or certainly an obligation to
18 consider revocation of his release. That's the thing here.
19 I mean, he's trying to set conditions under which he will
20 comply with the order that this Court has already imposed
21 upon him.

22 THE COURT: I think the only thing he's asking is
23 that whatever comes out of the therapy not be used against
24 him to either enhance the sentencing range or to be the basis
25 for further charges.

1 MR. PFANNENSCHMIDT: Well, that's not what I
2 understood the original objection to be, but I guess that's
3 where we are now. The original objection did not deal with
4 it at all. Now we're talking about, "Well, do it with
5 conditions." That's certainly something the Court can direct
6 if the Court wishes to do so in this particular case.

7 But I guess I would have some concerns about this
8 since there has been no briefing on this. I have some
9 concerns about setting this precedent.

10 THE COURT: Well, I don't want to set a precedent.
11 I'm trying to deal with this one case here this afternoon, --

12 MR. PFANNENSCHMIDT: I understand.

13 THE COURT: -- and it seems to me a reasonable
14 solution would be that Mr. Ward engage in the therapy or
15 whatever he would term it, but that any information revealed
16 in the course of the relationship would not affect the
17 guideline or be a basis for further criminal charges. Is
18 that what you're asking?

19 MR. THORNTON: Yes, Your Honor, and I'm also asking
20 that he not be subjected to either the plethysmograph, which
21 seems to be incredibly invasive, or the therapeutic
22 polygraph.

23 THE COURT: I guess I'd like to know a little bit
24 more about these two examinations. I don't have enough
25 information to know whether you're correct or not.

1 MR. PFANNENSCHMIDT: Your Honor, I can ask Miss
2 Richesson to take the stand.

3 THE COURT: Fine, that would be good.

4 CAMILLA RICHESSON, called as a witness, being duly
5 sworn or affirmed, testified as follows:

6 THE CLERK: Please be seated, ma'am. Would you
7 state for the record your full name please.

8 THE WITNESS: Camilla Richesson.

9 THE CLERK: Could you spell your first and last
10 name please.

11 THE WITNESS: C-a-m-i-l-l-a R-i-c-h-e-s-s-o-n.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MR. PFANNENSCHMIDT:

15 Q Ma'am, what's your occupation?

16 A I am a certified sexual predator specialist with T. W.
17 Ponessa & Associates.

18 THE COURT: What's the name of the associates
19 again?

20 THE WITNESS: T. W. Ponessa, P-o-n-e-s-s-a.

21 BY MR. PFANNENSCHMIDT:

22 Q And is it the business of your firm to design and carry
23 out evaluations and treatment programs for sexual offenders?

24 A Yes.

25 Q And in this particular case have you done an evaluation

1 of Mr. Ward?

2 A I have.

3 Q Okay, and you don't need to discuss the details of
4 that. Based upon that evaluation did you make a
5 recommendation to the probation office?

6 A I did.

7 Q What was that?

8 A Gosh, I left it back on my things.

9 Q Just a summary, that he needs further treatment?

10 A Yes, sexual offender treatment and I also recommended
11 drug and alcohol evaluation and a psychiatric evaluation.

12 Q Now let's talk about the sexual offender treatment.

13 A Yes.

14 Q Do you have either a treatment plan or some -- can you
15 outline to the Court what this treatment would involve?

16 A Well, first of all, we don't utilize the
17 plethysmograph. We do utilize the polygraph, and I will talk
18 about that.

19 Basically we have a group treatment modality. It's an
20 eclectic approach. It takes pieces from various therapeutic
21 regimens, as such cognitive behavior, which is the one we
22 utilize the most. Obviously we do some group work gestalt
23 just focusing on feeling and affect.

24 The reason that we use the polygraph -- first of all,
25 let me address the group. The reason that we use group is

1 that it's recognized as worldwide at this point as the
2 standard of treatment for sexual offenders, and that is
3 recognized by ATSA, A-T-S-A, and that is the Association for
4 the Treatment of Sexual Abusers. They are the authorities
5 so-to-speak of sexual offender treatment.

6 Group therapy enables an individual to come into an
7 environment, of course, starting is a difficult thing for
8 most people because it's nerve-wracking to try to get to know
9 people, but once they're there, what happens is that the
10 group can affirm positive behaviors, thinkings, feelings, it
11 can also confront issues like denial or behaviors that are
12 risky or thinking that is distorted. It's very effective
13 treatment.

14 As far as terms of a polygraph goes, in this case I
15 recommended that we would possibly use a therapeutic
16 polygraph with Mr. Ward, and that would be to address the
17 issue of what I see as the potential for denial on his part,
18 not denying that he owned or possessed child pornography,
19 that part he admitted to, but the reason that he gave me for
20 such a large collection was that, first of all, he heard some
21 newscasters on TV talking about how easy it was to access
22 child pornography and decided to see how easy it was for
23 himself. Once he was able to do that, he decided that he was
24 going to access web sites and turn them in to the federal
25 government to make money but he just never got around to

1 doing that.

2 One of the reasons that we would use a polygraph is to
3 determine the intent. I believe that there was sexual intent
4 from Mr. Ward in accessing the child pornography, and that
5 would be one of the reasons we would need to find out.

6 THE COURT: Excuse me for interrupting you but the
7 purpose of the polygraph would be to enable you to say,
8 "Well, I don't think you're telling the truth"?

9 THE WITNESS: Correct, in this instance it would be
10 used for denial.

11 THE COURT: You already don't think he's telling
12 the truth?

13 THE WITNESS: From what I heard him say that is
14 accurate, sir.

15 THE COURT: All right, go ahead.

16 BY MR. PFANNENSCHMIDT:

17 Q Complete your answer.

18 A Basically then what we would look at from him, we are
19 not looking at getting details of Mr. Ward's disclosure back
20 to anybody, we would be looking at whether or not he's
21 complying satisfactorily with treatment. The entire first
22 treatment goal for our practice is no more victims. We want
23 to make sure while there is no tangible victim in front of
24 me, there sure are victims in this case, there had to be in
25 order for the pictures to have been taken, and that is

1 something that we would want to explore and help Mr. Ward
2 understand and to make sure because, as I'm aware of in this
3 area, that pornography use is often a precursor to other
4 behaviors. It's an escalative-type of behavior, and we want
5 to try to stop that before it goes there, if that was indeed
6 where it was going. I can't make guarantees one way or the
7 other, but I certainly want to make sure that no one else
8 gets hurt.

9 THE COURT: You're saying you're not going to get
10 involved in this plethysmograph?

11 THE WITNESS: We don't use that, sir.

12 THE COURT: Mr. Thornton, did you hear that?

13 MR. THORNTON: Yes.

14 THE COURT: Do you have any questions?

15 MR. THORNTON: Yes, sir.

16 CROSS EXAMINATION

17 BY MR. THORNTON:

18 Q Miss Richesson, how long does this treatment program
19 usually last if you want to take it to fruition and actually
20 help someone not to reoffend?

21 A Okay, at this particular time there is no set end
22 guidelines, and that is because it in large part depends on
23 the client's motivation. We have several treatment goals
24 that we expect each person to undergo before they're able to
25 be released. We have people that have done that, but it's

1 taken them a few years in order to do that. We have groups
2 that meet once per week for one hour. So you're talking
3 total therapeutic time of, well, you usually have a vacation
4 or two in there, you're talking about maybe 50 hours of
5 therapy a year, and that's really just starting to nip the
6 bud. But it depends on his motivation, you know.

7 Q So somebody who's going to jail for a couple years, in
8 probably about four weeks Bruce is going to be in jail for a
9 couple years with hardened criminals, in about four weeks you
10 couldn't get anything done in those four weeks, could you?

11 A Oh, we sure could.

12 Q You have one session a week, and one of those sessions
13 is going to be a polygraph where you accuse him of lying.
14 Right?

15 A Well, we're going to find out whether or not that's the
16 case. I'm not accusing anyone at this point.

17 Q Okay, well, let's say the polygraph comes up and
18 whoever you have doing the polygraph decides that this is a
19 deceptive answer. Then you go after him and say, "Bruce, you
20 are lying. Tell us the truth. Bruce, you're lying. Tell us
21 the truth." Is that basically what you are doing there?

22 A Well, I suppose you could term it that way, but
23 actually, no, we don't really tell people that they are lying
24 or anything like that, it's definitely not as complicated as
25 you make it seem. What we are trying to do is get in touch

1 with the person's intent. If he has a sexual intent in
2 drawing child pornography off the internet, okay, for
3 purposes of sexual gratification, that is a preindicator to
4 us.

5 Q Didn't he tell you that one of the reasons he did it
6 was for sexual gratification? You said that he did it
7 initially because he wanted to access the web sites to see
8 how easy it was.

9 A No, sir.

10 Q Well, we can deal with that at the sentencing.

11 Now you indicated that you said you don't intend to
12 give details to anyone, but when Mr. Buckwalter calls you and
13 asks you questions, you're going to tell him everything,
14 aren't you? I mean, you're going to tell him Bruce Ward told
15 you that he's been fantasizing every night for the last two
16 weeks about the little girl down the street. If he says that
17 in group two weeks in a row, you're going to tell Mr.
18 Buckwalter that, aren't you?

19 A That would depend, sir, on Mr. Ward's level of
20 commitment to reducing the fantasies and the behavior.

21 Q Why would that matter? I mean, so that you make the
22 decision on your own as to what to tell Mr. Buckwalter, you
23 don't tell him everything he asks you?

24 A No, no, no, not necessarily. What I'm saying is if Mr.
25 Ward was admitting to fantasies but he was taking an active

1 approach in reducing the sexual fantasies or masturbation
2 activity, that would say a whole lot to me about his
3 motivation to change his behavior.

4 Q Okay, now how would he show you -- let's say he's going
5 to be in jail in four weeks, how would he show you in those
6 couple weeks that he's changed his behavior so that you
7 wouldn't feel it was necessary to tell Mr. Buckwalter these
8 things?

9 A I can't answer that question.

10 Q Now you indicated that -- well, you indicated that you
11 have an eclectic treatment program.

12 A Right.

13 Q Who put this treatment program together?

14 A Who put it together?

15 Q Yeah.

16 A Gosh, I guess about 10 years ago my owner -- the owner,
17 Tom Ponessa, put it together with a man by the name of Robert
18 Gingrich.

19 Q Have you ever had any peer reviews of this? Has
20 anybody come by and reviewed your treatment program, somebody
21 from an overall organization?

22 A Yeah, absolutely. As a matter of fact, we have regular
23 contact with the Megan's Board assessment people. We --

24 Q I'm sorry, not contacts, has anybody been reviewing
25 you, testing your program?

1 A Are they looking at our procedures, absolutely.
2 Megan's Board is doing that.

3 Q In what way? Do they give you --

4 THE WITNESS: Megan's Board, sir.

5 THE COURT: I don't know who they are.

6 THE WITNESS: They are the governing body for the
7 Pennsylvania state in determining assessment of sexual
8 offenders, whether or not they're predators or not. It's an
9 assessment board that is going to make the determination
10 about the appropriate treatment practices in Pennsylvania.

11 THE COURT: Okay.

12 THE WITNESS: They are under the Pennsylvania State
13 Parole Board I believe.

14 BY MR. THORNTON:

15 Q Is that something that came about as a result of
16 Megan's Law? Is that what this Megan's Board is?

17 A No. You mean our treatment program?

18 Q No, no, Megan's Board that you say is used at Ponessa &
19 Associates.

20 A Right.

21 Q Did that come about as a result of Megan's Law, the law
22 where you have to report sexual offenders?

23 A Yes, as far as I know.

24 Q So that this board itself is only determining whether
25 you are fulfilling their reporting requirements, right, they

1 are not judging your treatment program?

2 A Absolutely they are judging our treatment program.

3 Q Where are the results of that reported? Do they give
4 you some piece of paper that says you're doing this right,
5 you're doing this wrong?

6 A You'd have to ask them, sir, I don't know.

7 Q What interaction do you ever have with these people you
8 say that oversee the treatment program or review the
9 treatment program?

10 A I have personal contact with the director of Megan's
11 Board.

12 Q For what purpose? What exchanges do you have? Does
13 she say --

14 A Talking about our treatment program, what we do, what
15 we offer, showing her what she needs to see.

16 Q But you have never received any -- have no knowledge of
17 any actual evaluation that's been done?

18 A Not written.

19 Q And what -- if it's not written, how does the oral
20 evaluation process go?

21 A How does it go?

22 Q What do they come and tell you you need to do these
23 things but we're not writing it down?

24 A If she has a problem with something that we are doing,
25 she would tell us, but so far there hasn't been a problem.

1 Q Now the therapeutic polygraph, you told us -- let me
2 ask the question, when would the therapeutic polygraph be set
3 up? Bruce is going to jail probably in four weeks. When
4 would you do that?

5 A That would depend on whether or not payment would be
6 approved and received prior to that. Could be as soon as
7 next week.

8 Q And Bruce has to pay for all this himself. Right?

9 A That's not my understanding, no.

10 MR. THORNTON: I would ask Mr. Buckwalter is Mr.
11 Ward paying for this himself?

12 MR. BUCKWALTER: No.

13 MR. THORNTON: It was Mr. Ward's understanding that
14 he was going to have to pay for this himself.

15 MR. BUCKWALTER: No.

16 BY MR. THORNTON:

17 Q Finally my last question is what is your training and
18 background? Where did you go to school?

19 A I graduated from Millersville University with a master
20 of science degree in clinical psychology. I received my
21 certification in sexual predator treatment specialist from
22 Ohio University, and I have been doing this for four years.
23 And in addition to those trainings, golly, I know it's over
24 250 hours of sexual predator specialized treatment training,
25 some offered by ATSA, some offered by local organizations who

1 also provide treatment.

2 Q You mentioned ATSA, what's that?

3 A ATSA, A-T-S-A, --

4 Q ATSA.

5 A -- Association for the Treatment of Sexual Abusers.

6 Q And where are they located?

7 A I'm not sure where their main office is. They have
8 offices all over the place. They have one in Canada. They
9 have one in the United States. They have one in the United
10 Kingdom.

11 Q And the training for them, was it specified training in
12 certain areas or are you just meeting with them to discuss
13 issues?

14 A No, it's conferences.

15 Q Is there any type of accreditation in your field
16 whatsoever?

17 A In my personal field, no, but there are some on our
18 staff who have that.

19 Q What accreditation would that be?

20 A Well, we have someone on our staff who is a licensed
21 psychologist. He would get -- it depends on your training
22 and your degree. We have someone else on our staff who is an
23 NCC board certified counselor. She would get accreditation
24 because of the type of thing she holds. But they don't offer
25 it to everybody. They offer you the fact that you have been

1 there and have the hours but --

2 Q Do you have a psychiatrist James Arndt on your staff?

3 A We sure do.

4 Q And is that a psychiatrist who can prescribe medication
5 or a psychiatrist who actually works in the building?

6 A He works with us.

7 Q In the building with you?

8 A Well, we have five different offices, and he works out
9 of one of them. Most of our clients who are referred to him
10 go to that office.

11 THE COURT: What is his name?

12 THE WITNESS: Dr. James Arndt, A-r-n-d-t.

13 BY MR. THORNTON:

14 Q And I assume Dr. Arndt has never seen Mr. Ward. Right?

15 A Not to my knowledge.

16 Q Does Dr. Arndt review your summaries or your
17 evaluations?

18 A He did not review this one, my program coordinator did.

19 MR. THORNTON: Thank you. We have no further
20 questions, Your Honor.

21 THE COURT: Any further questions?

22 MR. PFANNENSCHMIDT: No.

23 THE COURT: Miss Richesson, assuming that Mr. Ward
24 takes the polygraph, you call it a therapeutic polygraph but
25 it's a polygraph, --

1 THE WITNESS: It's a polygraph, yes, sir.

2 THE COURT: -- how much of that comes back to the
3 pretrial services people or is that just something you use?

4 THE WITNESS: Mostly we utilize it for treatment,
5 that is the purpose. We need to find out the truth about the
6 matter, and it's been very successfully used in our practice
7 for years.

8 THE COURT: But you don't necessarily just report
9 everything, every question, every answer and so forth?

10 THE WITNESS: No, sir, not unless that's requested
11 by the probation officer.

12 THE COURT: Okay, thank you.

13 MR. THORNTON: If I can ask one further question.

14 BY MR. THORNTON:

15 Q And basically anything that Mr. Buckwalter or Mr. Pool
16 asks you you are going to answer. Right? If they ask you,
17 "Did Bruce Ward tell you that he accessed those web sites
18 only to perhaps turn them over to the federal government?
19 Did he tell you that when he took the polygraph? Did he fail
20 that question?" You know they're going to ask you that,
21 right, and you're going to have to answer them? Right?

22 A Right.

23 Q And if they ask, "Did Bruce Ward make any incriminating
24 remarks during group therapy?", what are you going to say?

25 If they ask you, let's make it specific, if they ask you,

1 "Did Bruce Ward ever indicate during any of the group
2 therapies that he had active fantasies involving children?",
3 are you going to answer that question?

4 A Sure.

5 Q And tell them the truth, so that if he said yes during
6 any of those therapy sessions or indicated to you, you would
7 be divulging his therapeutic confidences to you to the
8 probation officer?

9 A Therapeutic confidence with our practice is limited, I
10 will tell you that. It needs to be based on the standard of
11 treatment for sexual offenders. Everybody needs to be on the
12 same page, sir. The probation office, the polygraph examiner
13 and the treatment providers all need to have the same
14 information. Again it's not for the purposes of following
15 and tracking someone legally and criminally and trying to
16 hunt them down, it's for the purposes of not creating any
17 more victims. And once someone becomes invested in the
18 program and they see what it's all about, it becomes pretty
19 clear that that's not what we're all about. We're about
20 treatment for the individual. If he's got some deviate
21 sexual behavior and something we want to deal with, we want
22 to address that so that it stops or it's greatly minimized
23 and that the future harm of any individual will not happen.
24 That is the goal.

25 Q Well, of course, you see that that goal would work with

1 cross purposes for someone who is being sentenced. Right?

2 A I personally do not see how that could be in this case.

3 MR. THORNTON: Thank you.

4 THE COURT: Thank you very much. Appreciate your
5 being here.

6 THE WITNESS: Sure.

7 MR. THORNTON: Your Honor, our initial objection
8 was regarding the plethysmograph and the therapeutic
9 polygraph. We still -- and since they have indicated they
10 will not use the plethysmograph, that was brought up to me in
11 conversation with someone somewhere, and I was under the
12 impression that they would, so we would not continue that
13 objection obviously. Still we would ask that he not be
14 subjected to the therapeutic polygraph, and that any
15 confidences or anything that comes out of Mr. Ward, any
16 statement that he makes, not be used against him in any way
17 in any further proceeding here.

18 THE COURT: Okay. I understand, Mr. Thornton, what
19 your argument is. The other side of the coin is that the
20 treatment that has been directed by the pretrial services is
21 designed not to get Mr. Ward in further trouble but to help
22 him as much as possible.

23 I don't want to establish any precedent about this,
24 and what I'm concluding applies just to this case, but I'm
25 going to direct that he does participate in the polygraph as

1 part of the treatment, but I can assure you, Mr. Thornton and
2 Mr. Ward, that I will not permit anything that might get back
3 that is of a negative nature to influence my judgment and
4 decision as far as the sentence is concerned. On that basis
5 we will continue Mr. Ward under the supervision of pretrial
6 services. We will not revoke his release. Okay.

7 (The proceedings concluded.)
8

9 I hereby certify that the proceedings and evidence
10 of the court are contained fully and accurately in the notes
11 taken by me on the revocation of release hearing of the
12 within cause, and that this is a correct transcript of the
13 same.
14

15 Monica L. Zamiska

16 Monica L. Zamiska, RPR

17 Official Court Reporter
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